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City of Portland*

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

MASON LAKE,

Plaintiff,

v.

CITY OF PORTLAND, a municipal
corporation, and **JOHN DOE 1**, an individual,
and **JOHN DOE 2**, an individual,

Defendants.

Case No. _____

NOTICE OF REMOVAL

Multnomah County Circuit Court
Case No. 22CV21650

DEMAND FOR JURY TRIAL

TO: THE CLERK OF THE ABOVE-ENTITLED COURT, as well as **PLAINTIFF MASON LAKE**, and his attorney of record, **DRAKE AEHEGMA**, Drake Aehegma Attorney at Law.

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendant City of Portland hereby removes to this United States District Court for the District of Oregon, Portland Division ("Federal Court") the state court case now pending in the Circuit Court of the State of Oregon for the County of Multnomah ("State Court"), known as *Mason Lake v. City of Portland, John Doe 1, and John Doe 2*, MCCC Case No. 22CV21650 ("State Case"). This Notice of Removal is supported by the exhibits attached hereto and the statements made herein.

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A. TIMELINESS OF REMOVAL

1. As demonstrated from the State Court's Register of Action ("ROA"), a true and accurate copy of which is attached hereto and incorporated herein as Exhibit 1, Plaintiff Mason Lake ("Plaintiff" or "Lake") initiated the State Case with the State Court on June 27 2022.

2. Attached hereto and incorporated herein as Exhibit 2, is a true and accurate copy of Order Granting Plaintiff's Motion for Leave to Amend Second Amended Complaint, entered by the State Court on December 8, 2023. The order allowed Plaintiff to assert a federal claim against Defendant City of Portland.

3. Defendant City of Portland was served with Plaintiff's Second Amended Complaint for Assault and Battery, Violation of Civil Rights, 42 U.S.C. §1983 ("Second Amended Complaint") on December 12, 2023. Attached hereto and incorporated herein as Exhibit 3, is a true and accurate copy of Plaintiff's Second Amended Complaint.

4. This Notice of Removal is timely filed with the Federal Court pursuant to 28 U.S.C. § 1446, which provides that "[t]he notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based[.]" *See also* 28 U.S.C. § 1446(b)(2)(B) (stating that "[e]ach defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons . . . to file the notice of removal").

B. JURISDICTION OF THIS FEDERAL COURT

1. Plaintiff's Second Amended Complaint asserts a total of three claims for relief. Claim Three (Second Amended Complaint ¶¶ 31-36), is a federal claim, brought pursuant to 42 U.S.C. § 1983.

2. The Second Amended Complaint's other two claims, Claim One (Complaint ¶¶ 24-25), and Claim Two (Complaint ¶¶ 26-30) are state law claims.

3. This Federal Court has original jurisdiction over Plaintiff's federal claim pursuant to 28 U.S.C. §§ 1331 and 1441(a), and has supplemental jurisdiction over Plaintiff's two state law

claims pursuant to 28 U.S.C. §§ 1367(a) and 1441(c).

C. REMOVAL TO THIS FEDERAL COURT IS PROPER

1. Pursuant to 28 U.S.C. §§ 1441(a) and (c), and 1446(a), removal of the State Case to this Federal Court is appropriate and proper, and venue in this Federal Court is proper.

2. As demonstrated by the State Court's ROA that is attached hereto as Exhibit 1 and mentioned in paragraph A.1 above, the John Doe defendants have not been named nor served in the State Case. As such, the consent of the unnamed and unserved defendants is not required pursuant to 28 U.S.C. § 1446(b)(2)(A).

3. Pursuant to 28 U.S.C. § 1446(d), a true and accurate copy of this Notice of Removal will be promptly served on Plaintiff and the Clerk of the Court for the State Court.

WHEREFORE, Notice of Removal of Plaintiff's action in the Multnomah County Circuit Court to this U.S. District Court for the District of Oregon is hereby given.

DATED: December 12, 2023

PORTLAND CITY ATTORNEY'S OFFICE

/s/ Caroline Turco

CAROLINE TURCO, OSB #083813

Sr. Deputy City Attorney

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Of Attorneys for Defendant City of Portland

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2023, I served or caused to be served a true and correct copy of the foregoing **NOTICE OF REMOVAL** on the interested parties in this action as follows:

DRAKE AEHEGMA Drake Aehegma Attorney at Law PO Box 8404 Portland, OR 97207 <i>Of Attorneys for Plaintiff Lake</i>

- ☐ by **mail** in a sealed envelope, with postage fully prepaid, and deposited with the U.S. Postal Service in Portland, Oregon.
- ☐ by **hand delivery**.
- ☒ by **facsimile transmission**.
- ☐ by **email**, based on an agreement of the parties to accept service by e-mail or electronic transmission.
- ☒ by **electronic service** via the Court's CM/ECF electronic filing system for registered users.

DATED: December 12, 2023

/s/ Caroline Tuco

CAROLINE TURCO, OSB #083813

Sr. Deputy City Attorney

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Of Attorneys for Defendant City of Portland